

REMARKS

In the final Office Action¹, the Examiner rejected claims 1-7, 9-15, 17-37, 39-45, 47-69, 71-73, 75-95, 97, 99-114, and 138-161 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,949,877 to Traw et al. ("Traw").

By this amendment, Applicants propose to amend claims 1-7, 9-15, 17-37, 39-45, 47-69, 71-73, 75-90 and 138-157, and cancel claims 91-95, 97, 99-114, and 158-161 without prejudice or disclaimer.

Applicants respectfully traverse the rejection of claims 1-7, 9-15, 17-37, 39-45, 47-69, 71-73, 73-95, 97, 99-114, and 138-161 under 35 U.S.C. § 102(b) as allegedly anticipated by *Traw*.

Independent claim 1, for example, recites a data transmitting system comprising, among other things, a "portable data recording medium including ... a security module comprising a nonvolatile memory ... and a storage area distinct from the security module." *Traw* fails to teach or suggest at least the claimed portable data recording medium.

Traw discloses a method for protecting digital content from copying or other misuse when transferring the content between compliant devices over insecure links (*Traw*, abstract). *Traw*'s method works by distributing a "Certificate Revocation List" (CRL) from a license authority to various devices (*Traw*, col. 5, lines 37-42).

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Traw discloses two different methods for updating Certificate Revocation Lists.

First, *Traw* discloses that a complaint device can update its Certificate Revocation List by receiving a more recent Certificate Revocation List from another complaint device (*Traw*, col. 7, lines 32-35). Alternately, a compliant device can update its Certificate Revocation List by receiving a more recent Certificate Revocation List from removable compliant media (*Traw*, col. 6, lines 48-53 and col. 9, lines 19-28).

However, *Traw's* compliant device cannot correspond to the claimed "portable data recording medium" because *Traw's* compliant devices are not portable media. Indeed, *Traw's* removable compliant media are the only technology disclosed in *Traw* analogous to the claimed "portable data recording medium." However, while *Traw's* compliant media may include a storage area, they do not include both a security module and a storage area distinct from the security module. Therefore, *Traw* does not teach or suggest the claimed "portable data recording medium including ... a security module comprising a nonvolatile memory ... and a storage area distinct from the security module" as recited by independent claim 1.

Traw thus does not anticipate claim 1. Although of different scope than claim 1, independent claims 34 and 64 distinguish over *Traw* for at least the same reasons as claim 1.

Claims 2-7, 9-15, 17-33, and 138-145 depend from claim 1, claims 35-37, 39-45, 47-63, and 146-153 depend from claim 34, and claims 65-69, 71-73, 75-90, and 154-157 depend from claim 64. Because *Traw* does not support the rejection of independent claims 1, 34, 64, and 91 under 35 U.S.C. § 102(b), *Traw* also does not support the rejection of dependent claims 2-7, 9-15, 17-33, 35-37, 39-45, 47-63, 65-69,

71-73, 75-90, 154-157, and 138-157. Therefore, Applicant requests that the rejection of claims 1-7, 9-15, 17-37, 39-45, 47-69, 71-73, 73-91 and 138-157 under 35 U.S.C. § 102(b) be withdrawn and the claims allowed.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing the claims in condition for allowance. It is respectfully submitted that the entering of the Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance. Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 6, 2008

By: /David W. Hill/
David W. Hill
Reg. No. 28,220